

## IC 27-11-8

### Chapter 8. Regulation

#### IC 27-11-8-1

##### **Standards for valuation of certificates; maintenance of excess reserves on certificates**

Sec. 1. (a) Standards of valuation for certificates issued before January 1, 1987, shall be those provided by the laws applicable on December 31, 1985.

(b) The minimum standards of valuation for certificates issued after December 31, 1986, shall be based on the following tables:

(1) For certificates of life insurance—the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary Mortality Table, or any more recent table made applicable to life insurers.

(2) For annuity and pure endowment certificates, total and permanent disability benefits, accidental death benefits, and noncancellable accident and health benefits—such tables as are authorized for use by life insurers in this state.

(c) All of the above shall be under valuation methods and standards (including interest assumptions) in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

(d) The commissioner may accept other standards for valuation if the commissioner finds that the reserves produced will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed in this section. The commissioner may vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(e) Any society, with the consent of the commissioner of the state of domicile of the society and under the conditions, if any, that the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member shall not be affected thereby.

*As added by P.L.262-1985, SEC.1.*

#### IC 27-11-8-2

##### **Annual financial statement**

Sec. 2. (a) Reports shall be filed in accordance with this section.

(b) Every society transacting business in this state shall annually, before March 1, unless for cause shown the time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and pay a fee of twenty-five dollars (\$25) for filing the statement. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners

for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(c) As part of the annual statement required in this section, each society shall, before March 1, file with the commissioner a valuation of its certificates in force on December 31 last preceding, provided the commissioner may for cause shown, extend the time for filing the valuation for not more than two (2) calendar months. The valuation shall be done in accordance with the standards specified in section 1 of this chapter. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(d) A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars (\$100) for each day during which the neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in Indiana shall cease while the default continues.

*As added by P.L.262-1985, SEC.1. Amended by P.L.31-1988, SEC.24.*

### **IC 27-11-8-3**

#### **Renewal of license; fee**

Sec. 3. The authority of all societies licensed may be renewed annually, but in all cases to terminate on April 30. However, a license shall continue in full force and effect until the new license is issued or specifically refused. For each license or renewal, the society shall pay the commissioner a fee of twenty-five dollars (\$25). A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this article.

*As added by P.L.262-1985, SEC.1. Amended by P.L.31-1988, SEC.25.*

### **IC 27-11-8-4**

#### **Examination of societies transacting or applying for admission to transact business in Indiana; expenses**

Sec. 4. (a) The commissioner or any person the commissioner may appoint may examine any domestic, foreign, or alien society transacting or applying for admission to transact business in Indiana in the same manner as authorized for examination of domestic, foreign, or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers shall also be applicable to the examination of societies.

(b) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

*As added by P.L.262-1985, SEC.1.*

#### **IC 27-11-8-5**

##### **Requirements for issuance of license to transact business in Indiana**

Sec. 5. No foreign or alien society shall transact business in Indiana without a license issued by the commissioner. Any society desiring admission to Indiana shall comply substantially with the requirements and limitations of this article applicable to domestic societies. Any society may be licensed to transact business in Indiana upon filing with the commissioner:

- (1) a certified copy of its articles of incorporation;
- (2) a copy of its bylaws, certified by its secretary or corresponding officer;
- (3) a power of attorney to the commissioner as prescribed in IC 27-11-9-1;
- (4) a statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, verified by an examination made by the supervising insurance official of its home state or other state, territory, province, or country and satisfactory to the commissioner;
- (5) certification from the proper official of its home state, territory, province, or country that the society is legally incorporated and licensed to transact business therein;
- (6) copies of its certificate forms; and
- (7) such other information as the commissioner considers necessary;

and upon a showing that its assets are invested in accordance with this chapter.

*As added by P.L.262-1985, SEC.1.*

#### **IC 27-11-8-6**

##### **Noncompliance with limitations on transaction of business; injunction; hearing; liquidation of society; receivership; voluntary determination to discontinue business**

Sec. 6. (a) When the commissioner upon investigation finds that a domestic society:

- (1) has exceeded its powers;
- (2) has failed to comply with this chapter;
- (3) is not fulfilling its contracts in good faith;
- (4) has a membership of less than four hundred (400) after an existence of one (1) year or more; or
- (5) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public, or the business;

the commissioner shall in writing notify the society of the deficiency or deficiencies, state the reasons for the commissioner's dissatisfaction, and require that the deficiency or deficiencies that exist be corrected. After notice, the society shall have thirty (30) days in which to comply with the commissioner's request for correction, and, if the society fails to comply, the commissioner shall notify the society of the findings of noncompliance and require the

society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

(b) If on that date the society does not present good and sufficient reasons why it should not be enjoined or why action should not be commenced, the commissioner may present the facts relating thereto to the attorney general who shall, if the attorney general considers the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

(c) The court shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be enjoined or liquidated or a receiver appointed, the court shall enter the necessary order. No society so enjoined shall have the authority to do business until:

- (1) the commissioner finds that the violation complained of has been corrected;
- (2) the costs of the action have been paid by the society if the court finds that the society was in default as charged;
- (3) the court has dissolved its injunction; and
- (4) the commissioner has reinstated the certificate of authority.

(d) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled to the funds.

(e) No action under this section shall be recognized in any court of this state unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as the receiver.

(f) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction, and receivership shall be applicable to a society that shall voluntarily determine to discontinue business.

*As added by P.L.262-1985, SEC.1.*

### **IC 27-11-8-7**

#### **Noncompliance by foreign or alien society; suspension, revocation, or refusal of license**

Sec. 7. (a) When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in Indiana:

- (1) has exceeded its powers;
- (2) has failed to comply with any of the provisions of this chapter;
- (3) is not fulfilling its contracts in good faith; or
- (4) is conducting its business fraudulently or in a manner

hazardous to its members or creditors or the public; the commissioner shall in writing notify the society of the deficiency or deficiencies, state the reasons for the commissioner's dissatisfaction, and require that the deficiency or deficiencies that exist be corrected.

(b) After the notice, the society shall have thirty (30) days in which to comply with the commissioner's request for correction, and, if the society fails to comply, the commissioner shall notify the society of the findings of noncompliance and require the society to show cause on a date named why its license should not be suspended, revoked, or refused. If on that date the society does not present good and sufficient reason why its authority to do business in Indiana should not be suspended, revoked, or refused, the commissioner may suspend or refuse the license of the society to do business in Indiana until satisfactory evidence is furnished to the commissioner that the suspension or refusal should be withdrawn, or the commissioner may revoke the authority of the society to do business in Indiana.

(c) Nothing contained in this section shall be taken or construed as preventing any society from continuing in good faith all contracts made in Indiana during the time the society was legally authorized to transact business in Indiana.

*As added by P.L.262-1985, SEC.1.*

#### **IC 27-11-8-8**

##### **Application or petition for injunction**

Sec. 8. No application or petition for injunction against any domestic, foreign, or alien society, or lodge shall be recognized in any court of Indiana unless made by the attorney general upon request of the commissioner.

*As added by P.L.262-1985, SEC.1.*

#### **IC 27-11-8-9**

##### **Licensing of insurance producers of societies**

Sec. 9. (a) Insurance producers of societies shall be licensed in accordance with the laws regulating the licensing and the revocation, suspension, or termination of license of resident and nonresident insurance producers.

(b) No examination or license shall be required of any regular salaried officer, employee, or member of a licensed society who devotes substantially all of the officer's, employee's or member's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of those contracts no commission or other compensation directly dependent upon the amount of business obtained.

*As added by P.L.262-1985, SEC.1. Amended by P.L.178-2003, SEC.83.*

#### **IC 27-11-8-10**

##### **Unfair competition; unfair or deceptive acts or practices**

Sec. 10. Every society authorized to do business in Indiana shall

be subject to IC 27-4-1 relating to unfair methods of competition and unfair or deceptive acts or practices, provided that nothing in those provisions shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

*As added by P.L.262-1985, SEC.1.*